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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,927	06/26/2007	Masayoshi Komiya	PHDP040005US	6643
38107 7590 05/26/2009 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P. O. Box 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
PAULS, JOHN A				
ART UNIT		PAPER NUMBER		
3686				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/599,927

**Applicant(s)**

KOMIYA ET AL.

**Examiner**

JOHN A. PAULS

**Art Unit**

3686

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 April 2009.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 2-18 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 13 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
4) ☐ Interview Summary (PTO-413)  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_  
Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of Claims***

1. This action is in reply to the communication filed on 3 April, 2009.
2. Claim 1 has been cancelled.
3. Claims 2 – 5 have been amended.
4. Claims 6 – 18 have been added.
5. Claims 2 - 18 are currently pending and have been examined.

### ***Specification***

6. The specification is objected to because the information contained in the follow-up sheets is described in the specification as being “displayed in the form by which the tendency of progress is known”. (paragraph 0024 last sentence). The specification does not disclose what form is used or how it is used in the present invention. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 2 - 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. Independent Claim 5 recites means for, however, the specification does not disclose specific structure or acts as required by USC 112 6<sup>th</sup> paragraph. Therefore the scope of the claims is not clear.

9. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 8 recites the limitation *"the clinical communication extraction means extracts the medical record information in the e-mail from the clinical communicator database"*. Examiner notes that the medical record information is extracted by medical record extraction means not the clinical communication extraction means. Examiner assumes that the e-mail containing the medical record information resides in the clinical communications database, however, that limitation is not established by the claims as written and therefore the medical record cannot be extracted by the communications extraction means. This rejection contrasts with claim 11 which does establish this limitation.
10. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation *"other information provided by the medical care professionals to perform reality-based process control to support scheduling efficiency"* in claim 18 is a relative term which renders the claim indefinite. The terms *"other information"*; *"reality-based"* and *"efficiency"* is not defined by the claim, the

specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. Claims 2 – 6, 9 and 13 are rejected under 35 U.S.C. 103(a) as being obvious over Smith (US PG PUB 2003/0069759 A1).

**CLAIM 5**

Smith as shown discloses a healthcare management system with the following limitations:

*A hospital information system comprising:*

- *an electronic medical record database having stored therein electronic medical record information including at least: clinical pathways (i.e. treatment plans); (see at least Smith paragraph 0008); medical record information for patients; (see at least Smith paragraph 0019); follow-up sheets for the patients; (see at least Smith paragraph 0153);*
- *a clinical communication database having stored therein clinical communication information including at least: event information for the patients; (see at least Smith paragraph 0019 and 0020); event information for medical care professionals; (see at least Smith paragraph 0020, 0065 and 0148); messages to/from the medical care professionals; (see at least Smith paragraph 0146 and 0147);*
- *a clinical communication device connected to the electronic medical record database and the clinical communicator database through a communication link; (see at least Smith paragraph 0022, 0164 and 0174)*
- *the clinical communication device including:*
  - *electronic medical record information extraction means for extracting the electronic medical record information from the electronic medical record database; (see at least Smith paragraph 0019 and 0020);*
  - *clinical communicator information extraction means for extracting the clinical communication information from the clinical communicator database; (see at least Smith paragraph 0132 - 0140);*

- *information update means for updating the electronic medical record information and/or the clinical communication information in accordance with an input; (see at least Smith paragraph 0020 and 0136 - 0140);*
- *display control means for displaying the electronic medical record information and the clinical communication information, while linking them with each other. (see at least Smith paragraph 0019, 0020, 0146, 0156 and 0173).*

Smith does not disclose that the communicator information is extracted from a “clinical communicator database” per se, however, Smith does disclose lists of practitioners from which contacts may be made or events scheduled. It would be obvious to one of ordinary skill in the art at the time of the invention to modify the Health Care Management System of Smith with a separate contact list database because allows for the management of health care personnel contact information and messaging separate from patient information.

#### **CLAIMS 2 – 4, 9 and 13**

Smith as shown discloses the limitations shown above relative to Claim 5. Additionally, Smith discloses the following limitations:

- *the electronic medical record information includes: diagnosis information; (see at least Smith paragraph 0087 - 0095); order information; (see at least Smith paragraph 0096 - 0131);*
- *the display control means generates a scheduling table containing the event information for the patients; (health care activities); (see at least Smith paragraph 0020 0060 and*

- 0065); *and the event information for the medical care professionals*; (see at least Smith paragraph 0065 and 0148);
- *displays the diagnosis and treatment records*; (see at least Smith paragraph 0087 - 0095); *the order information*; (see at least Smith paragraph 0096 - 0131); *the follow-up sheets*; (see at least Smith paragraph 0153); *and the clinical pathways from the scheduling table*; (see at least Smith paragraph 0008);
  - *the information update means sets an importance level to information that is to be exchanged between the medical care professionals*; (see at least Smith paragraph 0140);
  - *the display control means issues an alert when a scheduled time to implement an event for the patients and/or an event for the medical care professionals has passed*; (see at least Smith paragraph 0075 - 0076);
  - *a display device controlled by the display control means to display the medical record information and the clinical communication information*; (see at least Smith paragraph 0019 and 0140);
  - *the clinical communication database stores medical care professional event information including a personal calendar including scheduled absences and in- hospital meetings for medical care professionals*; (see at least Smith paragraph 0020, 0065, 0074 and 0148);
  - *the electronic medical record database stores clinical pathways including scheduled patient treatments and the medical care professionals to provide the patient treatments*; (see at least Smith paragraph 0019 and 0020);



- *the display control means receives the medical care professional event information for a given medical care professional from the clinical communication database and the scheduled patient treatments which the given medical care professional is to provide from the electronic medical record database and controls the display device to display a combined personal schedule of the medical care professional event information and the patient treatments which the given medical care professional is to provide; (see at least Smith paragraph 0019, 0020, 0074 and 0148);*
  - *the display control means mutually exchanges the medical record information from the electronic medical record database and the clinical communication information from the clinical information database to generate the scheduling table in accordance with current patient conditions to set the clinical pathways; (see at least Smith paragraph 0019, 0020, 0074 and 0148).*
14. Claims 7, 8, 10 – 12 and 14 - 18 are rejected under 35 U.S.C. 103(a) as being obvious over Smith (US PG PUB 2003/0069759 A1) and in further view of Akers et al. (US PG PUB 2002/0169637 A1).

**CLAIMS 7, 8, and 10 - 12**

Smith as shown discloses the limitations above relative to Claim 5. Smith does not specifically disclose the following limitations, however, Akers does:

- *e-mails exchanged between the medical care professionals including an e-mail containing patient information indices which correlate an identified patient with*

*corresponding medical record information stored in the electronic medical record database; (see at least Akers paragraph 0008, 0032, 0037 and 0045);*

- *the medical record extraction means extracts the corresponding medical information for the identified patient in the e-mail; (see at least Akers paragraph 0023 and 0032);*
- *the information update means links the e-mail and the medical information of the identified patient and controls the display control means to cause the e-mail and the medical record information of the identified patient to be displayed; (see at least Akers paragraph 0032);*
- *e-mails exchanged between the medical care professionals including an e-mail containing patient information indices which identifies a patient with medical record information stored in the electronic medical record database, and in which the e-mail includes medical record information of the identified patient; (see at least Akers paragraph 0008, 0032, 0037 and 0045);*
- *the clinical communication information extraction means extracts the medical record information in the e-mail from the clinical communicator database; (see at least Akers paragraph 0023 and 0032);*
- *an information update means updates the medical record information of the identified patient in the electronic medical record database with the extracted medical record information; (see at least Akers paragraph 0023, 0026, 0032 and 0041);*
- *the clinical communication database includes e-mails exchanged between the medical care professionals including an e-mail containing patient information which identifies a*

- patient with medical record information stored in the electronic medical record database; (see at least Akers paragraph 0008, 0032, 0037 and 0045);*
- *the medical record extraction means extracts the medical information for the identified patient in the e-mail; (see at least Akers paragraph 0023 and 0032);*
  - *the information update means links the e-mail and the medical records of the identified patient and causes the display device to display the e-mail and the medical record information of the identified patient; (see at least Akers paragraph 0032);*
  - *the clinical communication database includes e-mails exchanged between the medical care professionals including an e-mail containing (1) patient information which identifies a patient with medical record information stored in the electronic medical record database, and (2) medical record information of the identified patient; (see at least Akers paragraph 0008, 0032, 0037 and 0045);*
  - *the clinical communication information extraction means extracts the medical record information in the e-mail from the clinical communicator database; (see at least Akers paragraph 0023 and 0032);*
  - *an information update means updates the medical record information of the identified patient in the electronic medical record database with the extracted medical record information; (see at least Akers paragraph 0023, 0026, 0032 and 0041);*
  - *the display control means controls the display device to display color-coded alerts regarding the personal schedule and the patient treatments; (see at least Akers paragraph 0032 and 0078).*

Akers does not specifically disclose “*color coded alerts*” per se, but does disclose notifications in order of priority or urgency. It would be obvious to one of ordinary skill in the art at the time of the invention to modify the notification of Akers to provide color coded alert since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Akers discloses an electronic medical file management system which includes transferring medical records by e-mail. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the healthcare management system of Smith so as to have included transferring medical records by e-mail, in accordance with the teaching of Akers, in order to allow for the secure transfer of medical files, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

#### **CLAIMS 14 - 18**

##### **CLAIM 14**

Smith as shown discloses a healthcare management system with the following limitations:

- *a medical record memory which stores medical record information for each of a plurality of patients including medical treatment schedules including patient event information;*  
(see at least Smith paragraph 0019 and 0020);
- *a clinical communicator memory which stores clinical communication information including event information including schedules for each of a plurality of medical care professionals;* (see at least Smith paragraph 0020, 0065, 0148 and 0181);

- *a display device; (see at least Smith paragraph 0019 and 0020);*
- *a display control section which links the medical information stored in the medical record memory and the clinical communication information stored in the clinical communication memory to generate a scheduling table based on the patient event information and the medical care professional event information and which controls the display device to display the scheduling table; (see at least Smith paragraph 0019, 0020, 0074 and 0148).*

Smith discloses the limitations shown above. Smith does not specifically disclose the following limitation, however, Akers does:

- *a clinical communicator memory which stores e-mails among the medical care professionals containing medical treatment information about the patient; (see at least Akers paragraph 0008, 0032, 0037 and 0045).*

Akers discloses an electronic medical file management system which includes transferring medical records by e-mail. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the healthcare management system of Smith so as to have included transferring medical records by e-mail, in accordance with the teaching of Akers, in order to allow for the secure transfer of medical files, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

## **CLAIMS 16 – 18**

The combination of Smith/Akers discloses the limitations above relative to Claim 14. Smith also discloses the following limitations:

- *the display control section controls the display device to display the patient events together with the medical care professional schedule; (see at least Smith paragraph 0019, 0020, 0074 and 0148);*
- *the display control section mutually exchanges the medical record information from the medical record memory and the clinical communication information from the clinical information memory to generate the scheduling table in accordance with current patient conditions to set the medical treatment schedules; (see at least Smith paragraph 0019, 0020, 0074 and 0148);*
- *the scheduling table is generated with reference to the medical care professional events, in-hospital events, other information provided by the medical care professionals to perform reality-based process control to support scheduling efficiency; (see at least Smith paragraph 0020, 0065 and 0148).*

## **CLAIMS 15**

The combination of Smith/Akers discloses the limitations above relative to Claim 14. Smith does not disclose the following limitations, however, Akers does:

- *an information update section which updates the medical record information stored in the medical record memory with the medical treatment information contained in the e-*

*mails stored in the clinical communications memory;* (see at least Akers paragraph 0023, 0026, 0032 and 0041).

Akers discloses an electronic medical file management system which includes transferring medical records by e-mail. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the healthcare management system of Smith so as to have included transferring medical records by e-mail, in accordance with the teaching of Akers, in order to allow for the secure transfer of medical files, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

#### ***Response to Arguments***

15. Applicant's arguments filed April 3, 2009 have been fully considered but they are not persuasive.
16. Applicant argues that the present application links two previously independent systems. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. \_\_\_, \_\_\_, 82 USPQ2d 1385, 1395-97 (2007) identified a number of rationales to support a conclusion of obviousness which are consistent with the proper "functional approach" to the determination of obviousness as laid down in *Graham*. The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. Exemplary rationales

that may support a conclusion of obviousness include: Combining prior art elements according to known methods to yield predictable results. See MPEP 2143.

17. Applicant argues that Smith has no clinical communicator database, however, Examiner respectfully disagrees. Smith in paragraph 0132 to 0147 clearly discloses lists of practitioners to whom communication may be sent including by email.
18. The objection to the specification related to Form no 2 is withdrawn, however, examiner maintains the objection to the specification because the information contained in the follow-up sheets is described in the specification as being “displayed in the form by which the tendency of progress is known”. (paragraph 0024 last sentence). The specification does not disclose what form is used or how it is used in the present invention. Correction is required. See MPEP § 608.01(b).
19. Applicant argues that the 112 2<sup>nd</sup> rejection applied to claims 1 – 4 is overcome by the amendment presented, however, the means for language which was originally contained in Claim 1 has been largely included in the amended claim 5. Therefore the 112 2<sup>nd</sup> rejection is maintained

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.



Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **John A. Pauls** whose telephone number is **(571) 270-5557**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Jerry O'Connor** can be reached at **571.272.6787**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

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Date: 21 May, 2009

/J. A. P./

Examiner, Art Unit 3686

/Gerald J. O'Connor/  
Supervisory Patent Examiner  
Group Art Unit 3686